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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/812,508	03/07/1997	JANAK KHIMCHAND PADIA	5117-C1-41-E	2435

28880 7590 07/02/2003

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EXAMINER

RAO, DEEPAK R

ART UNIT	PAPER NUMBER
1624	

DATE MAILED: 07/02/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No. 08/812,508	Applicant(s) Padia
Examiner Deepak Rao	Art Unit 1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Mar 7, 1997

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 5, 6, 8, 9, 18-21, 27-29, and 50-72 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) _____ is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims 5, 6, 8, 9, 18-21, 27-29, and 50-72 are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) Other: _____

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DETAILED ACTION

Claims 50-72, 5-6, 8-9, 18-21 and 27-29 are pending in this application.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 50-72, 5-6, 8-9, 18-21 and 27-29, drawn to compounds of formula I
wherein W, X, Y and Z are all carbons, corresponding composition and method of use, classified in class 544, subclass various.
- II. Claims 50-72, 5-6, 8-9, 18-21 and 27-29, drawn to compounds of formula I
wherein one of W, X, Y and Z is nitrogen and the remaining are carbons, corresponding composition and method of use, classified in class 544, subclass various.
- III. Claims 50-72, 5-6, 8-9, 18-21 and 27-29, drawn to compounds of formula I
wherein two of W, X, Y and Z is nitrogen and the remaining are carbons, corresponding composition and method of use, classified in class 544, subclass various.

The inventions are distinct, each from the other because of the following reasons:

Groups I-III are drawn to structurally dissimilar compounds. They are made independently and used independently. They would be expected to raise different issues of patentability if a compound of Group I, consisting of quinazoline compounds were anticipated,

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the anticipatory reference would not necessarily render obvious the compounds of Groups II-III or vice-versa. They are not art recognized equivalents, they are classified separately and require separate burdensome searches both in the literature and patent databases.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

Claims are generic to a plurality of disclosed patentably distinct species comprising the species disclosed in the application. In addition to the election of a single group, applicant is required under 35 U.S.C. 121 to elect **a single disclosed species falling within the elected group**, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deepak Rao whose telephone number is (703) 305-1879. The examiner can normally be reached on Tuesday-Friday from 6:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Mukund Shah, can be reached on (703) 308-4716. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.



Deepak Rao
Primary Examiner
Art Unit 1624

June 30, 2003